

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

September 2, 2003

CALL TO PODIUM:

Trudy Schwarz, Community
Planning Director

RESPONSIBLE STAFF:

Trudy Schwarz, Community
Planning Director

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance Introduction
	Resolution
X	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item
is a public hearing)

Introduced	7/7/2003
Advertised	7/30/2003
Hearing Date	8/18/2003
Record Held Open	8/28/2003
Policy Discussion	

TITLE:

Abandonment Application AB-56 Policy Discussion

An Ordinance to Abandon 3927 sq. ft. of land dedicated for a 15-foot wide alley adjacent to Lots 10 through 13 and Parcel A, Block 1, in the subdivision known as Russell and Brookes Addition, in the City of Gaithersburg, Montgomery County, Maryland

[Section 19-18 thru 27 of Chap. 19 (Streets & Sidewalks)]

SUPPORTING BACKGROUND:

The Mayor and City Council held the public hearing on August 18, 2003 for a request to abandon a 15-foot wide alley adjacent to Lots 10 through 13 and Parcel A, Block 1 in the Russell and Brookes Addition. Following the applicants' representative's presentation, there was no testimony from the public either in favor of or in opposition to the abandonment.

The record contained letters concurring with the abandonment from the two other adjoining property owners Verizon (C&P) and the 8 Russell Avenue Condominium Association who are not a party to the application.

The record was held open for ten days. The only addition to the record of the application was the certified legal advertisement of the public hearing notice in the *Gaithersburg Gazette*.

The Planning Commission, at their August 6, 2003 meeting, recommended approval of the application.

Staff will do a two-minute review.

Attachments:

Ordinance of Abandonment (#12)
Planning Commission Recommendation (#18)
Staff Analysis (#16)
Certified Legal Ad (#19)

DESIRED OUTCOME:

Abandon Alley Right of Way
ADOPT ORDINANCE

Ordinance No. _____

AN ORDINANCE TO ABANDON, RELEASE, AND VACATE
APPROXIMATELY 3,927 SQUARE FEET OF LAND
PREVIOUSLY DEDICATED FOR A 15-FOOT WIDE ALLEY,
LOCATED ADJACENT TO LOTS 10-13 AND PARCEL A, BLOCK 1,
OFF RUSSELL AVENUE, BETWEEN ITS INTERSECTION
WITH EAST DIAMOND AND BROOKES AVENUES,
IN THE RUSSELL AND BROOKES ADDITION,
CITY OF GAITHERSBURG, MONTGOMERY COUNTY, MARYLAND

ABANDONMENT AB-56

WHEREAS, the applicants, Clifford, Debelius, Crawford, Bonifant & Fitzpatrick, Chtd., for Matthew & Maria Glinsmann, Francis & W. Corrigan, and Mary & M. Wiencek, Jr., as proper parties to initiate this abandonment, applied pursuant to Article III of Chapter 19 of the City of Gaithersburg Code for the abandonment of a portion of property dedicated to public use as reflected in Plat Book B as Plat Number 40 recorded among the Montgomery County Land Records; and

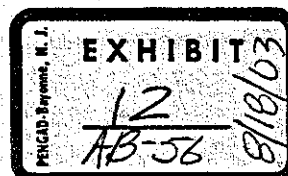
WHEREAS, the area of abandonment is a 15-foot wide alley lying adjacent to Lots 10 through 13 and Parcel A, Block 1, traversing in an east-west direction from the rear of Lot 18, Block 1, to Russell Avenue, between its intersection with East Diamond and Brookes Avenues, in the Russell and Brookes Addition to Gaithersburg; and

WHEREAS the alley to be abandoned is described herein by bearings and distances given in Exhibit "A," attached hereto and made a part hereof by this reference, and being said parcel of land as shown on a Map of Russell & Brookes Addition to Gaithersburg recorded in Plat Book B at Plat 40 among the land records of Montgomery County, Maryland, and being more particularly described as follows:

Description for part of a 15 foot wide alley adjacent to Lots 10 through 13, Block 1 as shown on the Map of Russell & Brookes Addition to Gaithersburg, recorded in Plant Book B at Plat 40 and Parcel A, Block 1 as shown on a plat of Russell & Brookes Addition To Gaithersburg recorded in Plat Book 135 at Plat Number 15646 among the land records of Montgomery County, Maryland and being more particularly described as follows:

Beginning for the same at the northeast corner of the aforementioned Parcel A Block 1 also being west right of way line of Russell Avenue and funning thence with the north line of said lot, also being the south line of an alley (15 feet wide) shown there, to the northwest corner of said lot and as eastward extension thereof

N 87°44' 00"W – 259.61 feet to intersect the east line of Lot 18, Block 1 of Russell & Brookes Addition as shown on a plat recorded in Plat Book 96 at Plat 10591 among the aforementioned land records; thence with a part of said east line



AB-56

N 13°49'50"W – 15.61 feet to the north line of said alley, thence with said north line also being the south line of Lots 10 through 13, Block 1 of the aforementioned Map of Russell & Brookes Addition To Gaithersburg, thence

S 87°44'00"E – 263.94 feet to the south east corner of Lot 13, Block 1 also being the west of right of way line of Russell Avenue, thence crossing said alley

S 02°16'00"W – 15.00 feet to the point of beginning containing 3,927 square feet of land more or less.

WHEREAS, the existing alley does not provide the sole means of ingress or egress to any property, is unpaved and the applicants each use the portion of the alley adjoining their property as if under their ownership and control, and the need for such right-of-way which was originally dedicated as part of an old alley system within the City of Gaithersburg has not been demonstrated to be in use by the general public for access purposes and has remained unimproved since its dedication; and

WHEREAS, the Mayor and City Council find that the existing right-of-way is no longer necessary for present or anticipated future vehicular, pedestrian, or other right-of-way use by the general public, and does not provide the sole means of ingress and egress to any property; and

WHEREAS, the Mayor and Council find that there are no existing easements necessary for present or future use; and

WHEREAS, a duly advertised public hearing on said application was held by the Mayor and City Council on August 18, 2003, and the Planning Commission has submitted on August 6, 2003, a recommendation supporting the abandonment to the Mayor and City Council; and

WHEREAS, the Mayor and City Council have received no request for further hearings on this matter, and there have been no further objections to the abandonment; and

WHEREAS, the Mayor and City Council have concluded that no further hearings are necessary to resolve this matter:

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of Gaithersburg, Maryland, that the above-described areas dedicated to public right-of-way use containing approximately 3,927 square feet of land are hereby abandoned, vacated, and released.

ADOPTED by the City Council of Gaithersburg this ____ day of _____, 2003.

SIDNEY A. KATZ, MAYOR and President
of the Council

DELIVERED to the Mayor of the City of Gaithersburg this ____ day of _____, 2003.
APPROVED/VETOED by the Mayor of the City of Gaithersburg this ____ day of _____,
2003.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the ____ day of _____, 2003, and the same was approved/vetoed by the Mayor of the City of Gaithersburg on the ____ day of _____, 2003. This ordinance will become effective on the ____ day of _____, 2003.

David B. Humpton, City Manager

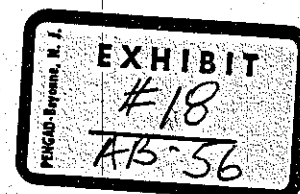
COMMUNICATION: PLANNING COMMISSION**MEMORANDUM TO:** Mayor and City Council**VIA:** David Humpton, City Manager**FROM:** Trudy Schwarz, Community Planning Director**DATE:** August 6, 2003

SUBJECT: AB-56 -- Debelius, Crawford, Bonifant and Flitzpatrick, for Mr. & Mrs. Glinsmann, Mr. & Mrs. Corrigan, and Mr. & Mrs. Weincek
Abandonment of approximately 3,927 square feet of land dedicated for right-of-way for a 15-foot wide alley lying adjacent to Lots 10 through 13 and Parcel A, Block 1, off Russell Avenue, between its intersections with East Diamond and Brookes Avenues, in the Russell and Brookes Addition to the City of Gaithersburg, Montgomery County, Maryland.

At its regular meeting on August 6, 2003, the Planning Commission made the following motion:

Commissioner Hicks moved, seconded by Commissioner Bauer, to recommend to the City Council APPROVAL of Abandonment Application AB-56.

Vote: 5-0



Planning Director _____ Jennifer Russel

COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Planning Commission

FROM: Trudy M.W. Schwarz, Community Planning Director

DATE: August 1, 2003

SUBJECT: AB-56 -- The application requests abandonment of approximately 3,927 square feet of land dedicated for right-of-way for a 15-foot wide alley lying adjacent to Lots 10 through 13 and Parcel A, Block 1, off Russell Avenue, between its intersections with East Diamond and Brookes Avenues, in the Russell and Brookes Addition to the City of Gaithersburg, Montgomery County, Maryland.

APPLICANT:

Jim Clifford, Debelius, Crawford, Bonifant and Flitzpatrick, for Matthew and Maria Glinsmann, Francis and W.L. Corrigan, and Mary and Michael Weincek

REQUEST:

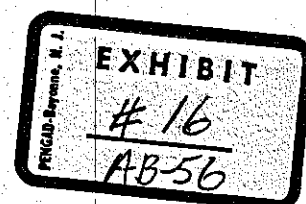
The application requests abandonment of approximately 3,927 square feet of land dedicated for right-of-way for a 15-foot wide alley lying adjacent to Lots 10 through 13 and Parcel A, Block 1, off Russell Avenue, between its intersections with East Diamond and Brookes Avenues, in the Russell and Brookes Addition to the City of Gaithersburg, Montgomery County, Maryland.

LOCATION:

Russell and Brookes Addition to Gaithersburg
Olde Towne area of Gaithersburg
Russell and Brookes/Walker Historic District

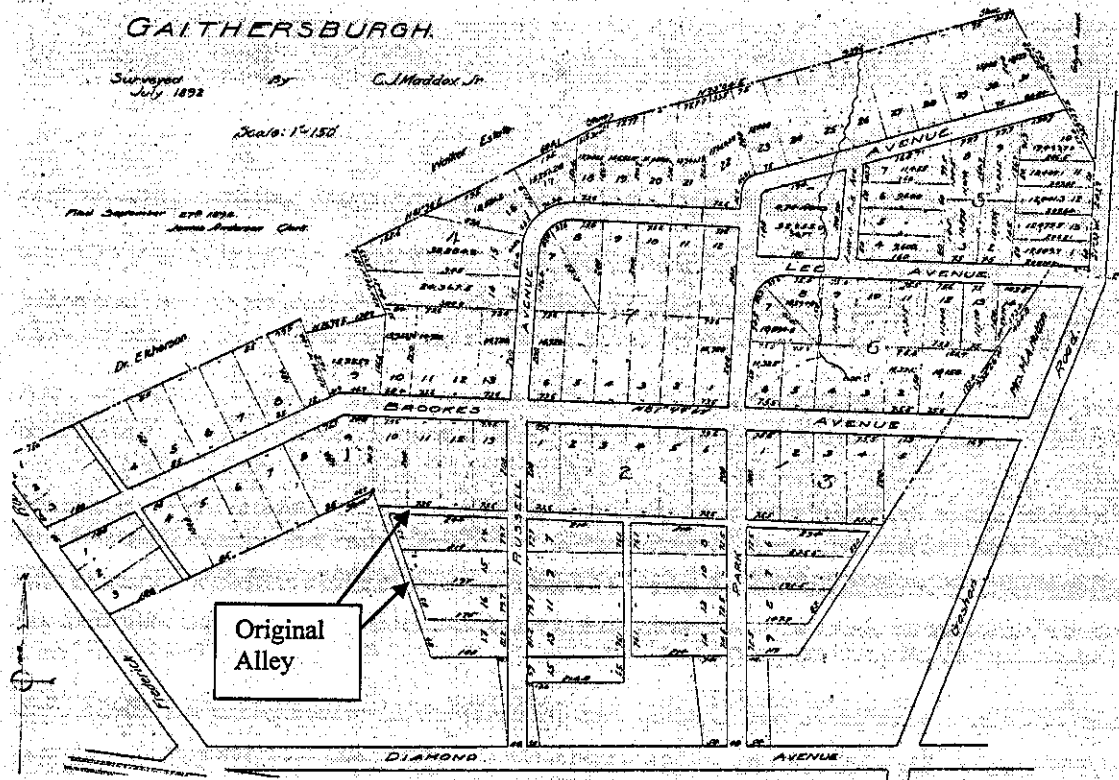
BACKGROUND:

This alley was dedicated in 1892 for access to the rears of the applicants' lots and Lots 14, 15, 16 and 17, Block One. See the map on the next page

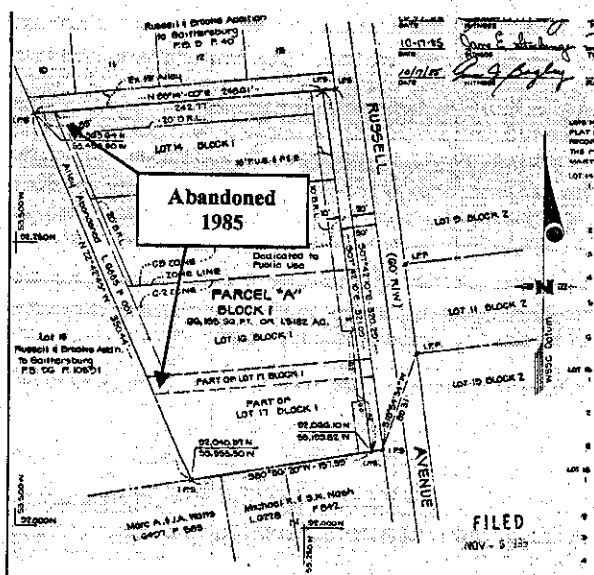


MAP OF RUSSELL & BROOKES ADDITION TO GAITHERSBURGH.

Copied from Liber 24, No 26, Page 212



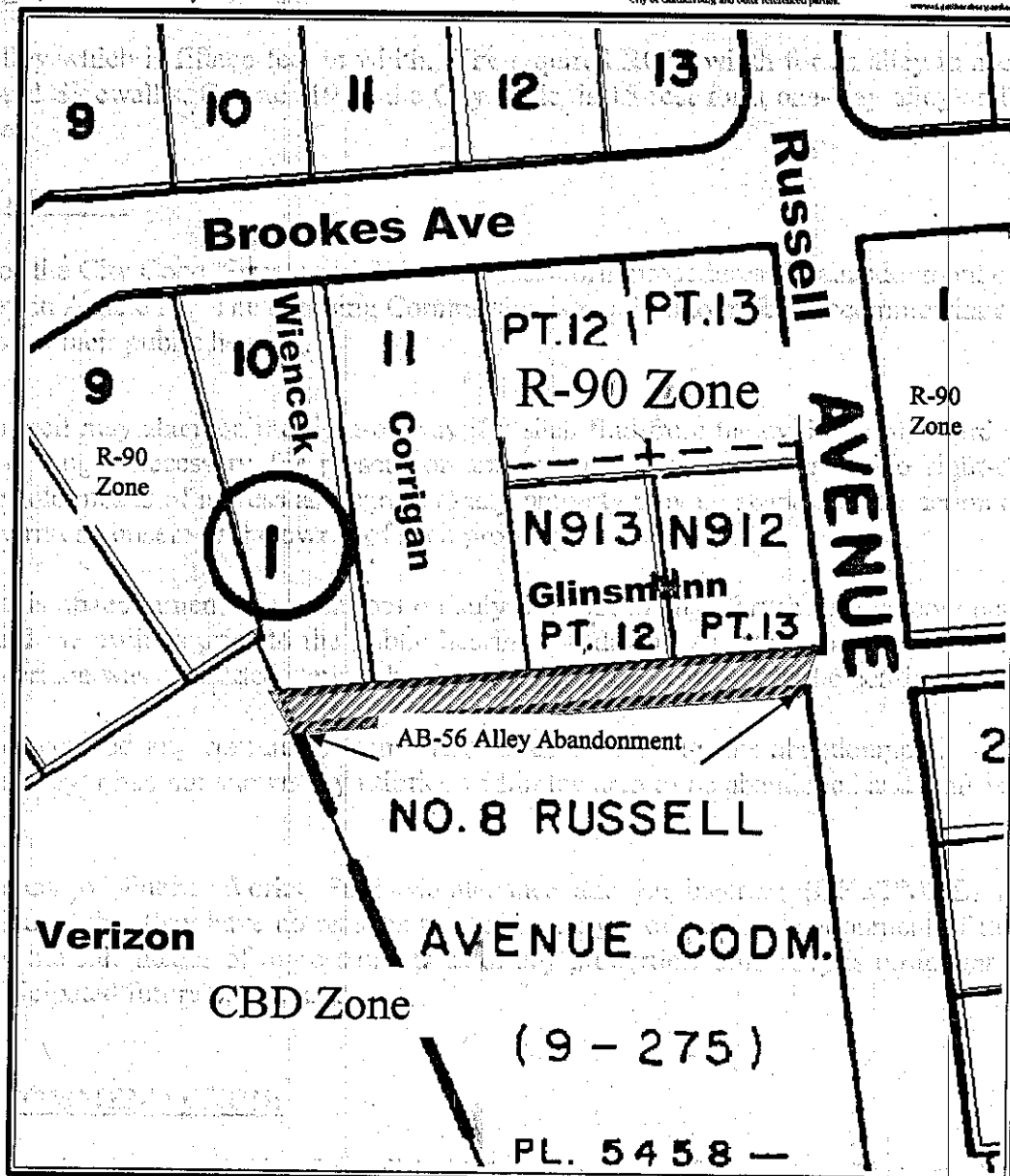
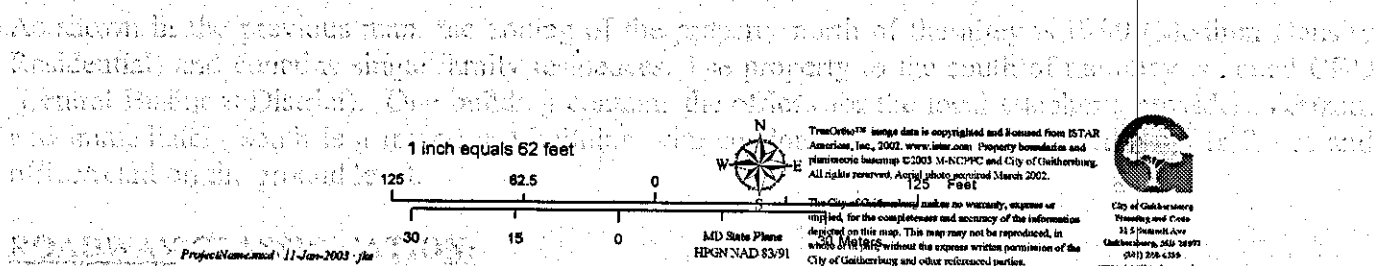
1892 Subdivision Plat



1985 Resubdivision Plat

A portion of the alley was abandoned in 1985 and was included in a resubdivision plat and became known as Parcel A, Block 1. The subject portion of the alley of this abandonment request was not abandoned at that time at the request of the Burdette family which owned the Pt. of Lots 12 and 13 next to the alley.

This application was filed on June 17, 2003 by Mr. Clifford for the applicants listed above, whose property abuts the alley proposed to be abandoned. Below is a map showing each of the properties and the alley proposed to be abandoned.



RECEIVED
AUG 27 2003
GAZETTE NEWS

9030 Comprint Court, Gaithersburg, MD 20877. 3

This is to certify that the annexed advertisement of:

The Notice of Public Hearing -- PHAB-56

was published in The Gaithersburg Gazette Newspaper, Montgomery County, Maryland. The ad appeared once a week on

Gaithersburg Publishing Company

Karey A. Major
Copy of ad attached



KAREY A. MAJOR
Notary Public, State of Maryland
Prince George's County
My Commission Expires March 31, 2007

NOTICE OF PUBLIC HEARING

The Mayor and City Council of the City of Gaithersburg will conduct a public hearing on Abandonment Application AB-56, filed by Jim Clifford, Debelius, Crawford, Bonifant and Fitzpatrick, for Mr. & Mrs. Glinzmann, Mr. & Mrs. Corrigan, and Mr. & Mrs. Weincek, on

MONDAY
August 18, 2003
7:30 P.M.

or as soon thereafter as it can be heard in the Council Chambers at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland on.

The application requires abandonment of approximately 3,927 square feet of land dedicated for right-of-way for a 15-foot wide alley lying adjacent to Lots 10 through 13 and parcel A, Block 1, off Russell Avenue, between its intersections with East Diamond and Brookes Avenues, in the Russell and Brookes Addition to the City of Gaithersburg, Montgomery County, Maryland.

Further information may be obtained from the Planning and Code Administration Department at City Hall, 31 South Summit Avenue between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Trudy Schwarz, Community Planning Director
Planning and Code Administration

11/7/30/03

